



Bill Draft 2009-TD-22: Restore Cigarette Tax Stamps.

2009-2010 General Assembly

Committee: Revenue Laws
Introduced by:
Analysis of: 2009-TD-22

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SUMMARY: *Bill Draft 2009-TD-22 would require a tax stamp be attached to packages of cigarettes sold in North Carolina as evidence of payment of the tax on cigarettes and would create a criminal penalty for counterfeiting stamps or stamp impression devices.*

CURRENT LAW: North Carolina first began taxing cigarettes in 1969. Tax stamps were required to be attached to packages of cigarettes as evidence of payment of the tax. In 1993, the tax stamp requirement was repealed and the payment of the cigarette tax was recorded by reports submitted by cigarette distributors.

At the time of the tax stamp repeal, 4 other states (Michigan, Hawaii, North Dakota, and Alaska) also did not require tax stamps. Since the repeal of the North Carolina tax stamp, Michigan, Hawaii, and Alaska have begun to require cigarette tax stamps. South Carolina repealed its tax stamp in 1997. Currently 47 states require cigarette tax stamps.

At the time of the original enactment, a discount of 7/24¢ per stamp was given for the expenses associated with the stamps (for a discount of approximately 5¢ per carton). When the tax stamp was eliminated, the discount was amended to provide for a 4% discount for preparing the reports on taxes due. The discount was repealed in 2003. The discount was reinstated in 2004 at a reduced rate of 2%. With the recent increase in the rate, the discount is currently 18¢ per carton.

BILL ANALYSIS: Bill Draft 2009-TD-22 would reinstate cigarette tax stamps.

Stamps: The tax required in G.S. 105-113.5 (Tax on cigarettes) must be evidenced by a stamp placed on the package of cigarettes. The Department of Revenue (Department) must make arrangements for the manufacture and sale of the stamps. The Department may sell stamps directly to distributors, or may allow the manufacturer of the stamps to sell stamps directly to distributors. Full payment is required before stamps are given to distributors. The draft also imposes the following additional requirements:

- Each roll of stamps must have a unique serial number.
- Stamps may only be sold to licensed distributors.
- Stamps must be affixed within 48 hours of the receipt of cigarettes (excluding Saturdays, Sundays, and State holidays).
- Stamps must be affixed to bottom of the smallest package of cigarettes (generally the pack) and in the manner so that the stamp cannot be removed without being mutilated or destroyed.

Reports: The distributor report is amended to require the following additional information:

- The quantity of cigarettes on hand on the first and last days of the preceding calendar month.
- The amount of stamps purchased, used, and on hand during the reporting period.
- Any other information the Department requires.

Discount: The discount for the preparation of reports is deleted and replaced with a 2% discount for the expenses associated with stamping.

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Refunds: The Department must offer refunds of unused or mutilated stamps. Refunds are also available for cigarettes sold out of State, or sold to an entity that is not subject to tax.

Contraband Cigarettes: All contraband cigarettes seized by the state must be destroyed.

Felony for counterfeiting stamps: Individuals convicted of counterfeiting or forging a tax stamp, or manufacturing or possessing an impression device is guilty of a Class H felony and subject to a \$2,000 fine.

EFFECTIVE DATE: This bill would be effective January 1, 2011.

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